

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JENNIFER PELLAND,

Plaintiff,

v.

Case No. 2:20-cv-500-FtM-38NPM

KING OF THE ROAD MC, LLC,

Defendant.

REPORT AND RECOMMENDATION¹

This matter is before the Court on the Order to Show Cause entered on November 20, 2020 ([Doc. 29](#)), which stems from the circumstances surrounding the withdrawal of Plaintiff's counsel. Plaintiff's former counsel found himself unable to confer with Plaintiff Jennifer Pelland because she failed to respond to calls, texts and emails. ([Doc. 19](#)). Consequently, he filed a motion to withdraw ([Doc. 21](#)), which was set for a November 19, 2020 hearing. Plaintiff's counsel served the Notice of Hearing to Plaintiff via email and certified mail to her last known address. (Docs. 22, 23, 24, 25, 26). While counsel for both parties were permitted to appear

¹ Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this document.

telephonically, Plaintiff was required to appear in person for the hearing. (Doc. 22). However, Plaintiff failed to appear at the November 19, 2020 hearing.

Subsequently, this Court issued the Order to Show Cause, which required Plaintiff to show good cause in writing why this action should not be dismissed for failure to prosecute. The Court cautioned Plaintiff that failure to comply with the Order to Show Cause would result in the dismissal of this action without further notice. Plaintiff did not respond to the Order to Show Cause.

Pursuant to Local Rule 3.10, “[w]henver it appears that any case is not being diligently prosecuted the Court may, on motion of any party or on its own motion, enter an order to show cause why the case should not be dismissed, and if no satisfactory cause is shown, the case may be dismissed by the Court for want of prosecution.” M.D. Fla. R. 3.10. By failing to appear at the November 19, 2020 hearing and failing to respond to court orders, Plaintiff has not shown that she is diligently prosecuting her case.

Accordingly, it is respectfully **RECOMMENDED**:

- 1) This action be dismissed for lack of prosecution;
- 2) All motions, deadlines and hearings be terminated and cancelled; and
- 3) The case be closed.

Reported in Fort Myers, Florida on December 11, 2020.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1. **To expedite resolution, parties may file a joint notice waiving the 14-day objection period.**